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CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 60

Introduced by Assembly Member Knox
(Coauthor: Senator Burton)

December 7, 1998

An act to amend Sections 510, 554, 556, and 1182.1 of, to add Sections 500, 511, 512, 513, 514, 515, 516, 517, and 558 to, to repeal Section 1183.5 of, and to amend and repeal Sections 1182.2, 1182.3, 1182.9, and 1182.10 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 60, as amended, Knox. Employment: overtime.

Existing law provides that 8 hours of labor constitute a day's work unless it is otherwise expressly stipulated by the parties to a contract.

This bill would delete the authority of parties to otherwise expressly stipulate the number of hours that constitute a day's work. The bill would provide that, except for an employee

working pursuant to an alternative workweek schedule, as specified, hours worked in excess of 8 hours in one day, hours worked in excess of 40 hours in one workweek, and the first 8 hours worked on the 7th day of work in a given workweek are to be compensated at the rate of no less than 1 and $\frac{1}{2}$ times the regular rate of pay of an employee. Under the bill, hours worked in excess of 12 hours in one day as well as hours worked in excess of 8 hours on any 7th day of a workweek are to be compensated at the rate of no less than twice the regular rate of pay of an employee. Employees working pursuant to an alternative workweek schedule under other specified provisions of this bill would be exempt from these requirements.

This bill would make an employer, or other person acting on behalf of an employer, subject to prescribed civil penalties for the ~~payment of a wage to an employee that is in violation of the requirement to pay for overtime work established by~~ *violation of prescribed provisions of the Labor Code or any provisions regulating hours and days of work of wage order* orders of the Industrial Welfare Commission ~~regulating hours and days of work~~. The bill would authorize the Labor Commissioner to issue citations for violations of ~~the bill's provisions~~ *prescribed provisions of the Labor Code regulating the payment of wages for overtime work and provisions regulating hours and days of work in wage orders of the commission* and would prescribe a procedure by which the cited employer or other person may contest the proposed assessment of a civil penalty.

Under existing law, work performed in the necessary care of animals, crops, or agricultural lands is exempt from specified regulation under the above provisions, including the standard for compensation at an overtime rate for work in excess of 8 hours per day.

This bill instead would exempt persons employed in an agricultural occupation, as defined in the wage order of the Industrial Welfare Commission relating to agricultural occupations, with a prescribed exception, from specified regulation under the Labor Code.

Under an existing statute, any employer who intends to use a flexible scheduling technique, as permitted by wage order



of the commission, is required to make full written disclosure to the affected employees concerning certain matters of the flexible schedule, as specified. Existing wage orders of the commission specify the rate of overtime compensation required to be paid to an employee for work in excess of 40 hours per week. Other existing provisions of those wage orders provide that no employer is in violation of those overtime provisions if the employees of the employer have adopted a voluntary written agreement that satisfies specified criteria.

This bill would repeal that statute and instead codify the authority of the employees of an employer to adopt an alternative workweek schedule that permits work by affected employees for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation when approved by at least $\frac{2}{3}$ of the affected employees in a work unit by secret ballot. The bill would provide that an employee working more than 8 hours, but not more than 12 hours, in a day pursuant to an alternative workweek schedule is required to be paid an overtime rate of compensation of no less than 1 and $\frac{1}{2}$ times the regular rate of pay of the employee for work in excess of the regular hours established by that schedule and for work in a workweek in excess of 40 hours per week and an overtime rate of compensation of no less than double the regular rate of pay of the employee for any work in excess of 12 hours per day and work in excess of 8 hours on days worked beyond the regularly scheduled workweek under the agreement.

The bill would declare null and void certain alternative workweek schedules adopted pursuant to specified wage orders of the Industrial Welfare Commission.

Existing wage orders of the commission prohibit an employer from employing an employee for a work period of more than 5 hours per day without providing the employee with a meal period of not less than 30 minutes, with the exception that if the total work period per day of the employee is no more than 6 hours, the meal period may be waived by mutual consent of both the employer and employee.



This bill would codify that prohibition and also would further prohibit an employer from employing an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, with a specified exception.

The bill would provide that, if an employer approves the written request of an employee to make up work time that is lost as a result of a personal obligation of the employee, the hours of that makeup work time, if performed in the same workweek in which the time was lost, may not be counted towards computing the total number of hours worked in a day for purposes of specified overtime requirements, except for hours in excess of 11 hours of work in one day or 40 hours in one workweek. The bill would require an employee to provide a signed written request for each occasion he or she makes that request. The bill would prohibit an employer from encouraging or otherwise soliciting an employee to make that request.

Existing wage orders of the commission provide that no person employed in an administrative, executive, or professional capacity is required by those wage orders to be compensated for overtime work. Those existing wage orders define an employee as employed in an administrative, executive, or professional capacity if, among other things, the employee is engaged in work that is primarily intellectual, managerial, or creative, and which requires exercise of discretion and independent judgment and the employee receives compensation of not less than a specified amount per month.

This bill would authorize the Industrial Welfare Commission to establish exemptions, with specified limitations, from the requirement that premium pay be paid for overtime work for executive, administrative, and professional employees, provided that the employee is primarily engaged in the duties which meet the test of the exemption and the employee earns a monthly salary equivalent to no less than 2 times the state minimum wage for full-time employment.

The bill would authorize the Industrial Welfare Commission to review, retain, or eliminate exemptions from



the hours requirements that were contained in a valid wage order in effect in 1997 and would authorize the commission to establish additional exemptions therefrom for the health or welfare of employees in any occupation, trade, or industry until January 1, 2005.

Under existing law, employment in which the hours of work do not exceed 30 hours in a week or 6 hours in a day are exempt from the general provisions of the Labor Code relating to the hours and days that constitute a workday and a workweek, and related provisions.

This bill would clarify that the exemption applies to the requirements for a day's rest within a period of 7 days of labor and the prohibition against requiring an employee to work more than 6 days in 7.

Existing provisions of the Labor Code contain specific workday and workweek requirements relating to employees of ski establishments, employees of licensed hospitals, and stable employees engaged in the raising, feeding, or management of racehorses. Existing law also exempts employers engaged in specified commercial fishing enterprises from the minimum wage and maximum hour provisions of existing law.

This bill would repeal those provisions as of July 1, 2000.

This bill would require the Industrial Welfare Commission, prior to July 1, 2000, to conduct a review of wages, hours, and working conditions in the ski industry, commercial fishing industry, and health care industry, and for licensed pharmacists, outside sales persons, and stable employees in the horseracing industry. The bill would authorize the commission, based upon that review, to convene a public hearing to adopt or modify regulations at that hearing pertaining to those industries without convening wage boards. The bill would provide that the hearing be concluded by July 1, 2000.

The bill also would require the Industrial Welfare Commission, at a public hearing, to adopt wage, hours, and working conditions orders consistent with this measure without convening wage boards, which orders shall be final and conclusive for all purposes. Additionally, the commission would be authorized to adopt regulations consistent with this

measure necessary to provide assurances of fairness regarding the conduct of employee workweek elections, employee disclosures, employee requests to the Labor Commissioner to review designations of work units, and processing of employee petitions as provided for in this measure or under any wage order of the commission.

Additionally, the bill would authorize the Industrial Welfare Commission to adopt or amend orders relating to break periods, meal periods, and days of rest.

Since violation of these provisions would, under existing law, constitute a misdemeanor, the bill would impose a state-mandated local program.

The bill also would make other technical and conforming changes and would declare null and void specified wage orders of the Industrial Welfare Commission relating to these provisions and temporarily reinstate specified prior orders of the commission.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited
2 as the “Eight-Hour-Day Restoration and Workplace
3 Flexibility Act of 1999.”

4 SEC. 2. The Legislature hereby finds and declares all
5 of the following:

6 (a) The eight-hour workday is the mainstay of
7 protection for California’s working people, and has been
8 for over 80 years.

9 (b) In 1911, California enacted the first daily overtime
10 law setting the eight-hour daily standard, long before the
11 federal government enacted overtime protections for
12 workers.



1 ~~(e) Without the eight-hour limitation, many~~
2 ~~employers would lengthen the workday to 12 or more~~
3 ~~hours, resulting in extreme fatigue and stress to workers.~~

4 ~~(d)–~~

5 (c) Ending daily overtime would result in a substantial
6 pay cut for California workers who currently receive
7 daily overtime.

8 ~~(e)–~~

9 (d) Numerous studies have linked long work hours to
10 increased rates of accident and injury.

11 ~~(f)–~~

12 (e) Family life suffers when either or both parents are
13 kept away from home for an extended period of time on
14 a daily basis.

15 ~~(g)–~~

16 (f) In 1998 the Industrial Welfare Commission issued
17 wage orders that deleted the requirement to pay
18 premium wages after eight hours of work a day in five
19 wage orders regulating eight million workers.

20 ~~(h)–~~

21 (g) Therefore, the Legislature affirms the importance
22 of the eight-hour workday, declares that it should be
23 protected, and reaffirms the state's unwavering
24 commitment to upholding the eight-hour workday as a
25 fundamental protection for working people.

26 SEC. 3. Section 500 is added to the Labor Code, to
27 read:

28 500. For purposes of this chapter, the following terms
29 shall have the following meanings:

30 (a) "Workday" and "day" mean any consecutive
31 24-hour period commencing at the same time each
32 calendar day.

33 (b) "Workweek" and "week" mean any seven
34 consecutive days, starting with the same calendar day
35 each week. "Workweek" is a fixed and regularly
36 recurring period of 168 hours, seven consecutive 24-hour
37 periods.

38 (c) "Alternative workweek schedule" means any
39 regularly scheduled workweek requiring an employee to
40 work more than eight hours in a 24-hour period.

1 SEC. 4. Section 510 of the Labor Code is amended to
2 read:

3 510. (a) Eight hours of labor constitutes a day's work.
4 Any work in excess of eight hours in one workday and any
5 work in excess of 40 hours in any one workweek and the
6 first eight hours worked on the seventh day of work in any
7 one workweek shall be compensated at the rate of no less
8 than one and one-half times the regular rate of pay for an
9 employee. Any work in excess of 12 hours in one day shall
10 be compensated at the rate of no less than twice the
11 regular rate of pay for an employee. In addition, any work
12 in excess of eight hours on any seventh day of a workweek
13 shall be compensated at the rate of no less than twice the
14 regular rate of pay of an employee. Nothing in this section
15 requires an employer to combine more than one rate of
16 overtime compensation in order to calculate the amount
17 to be paid to an employee for any hour of overtime work.
18 The requirements of this section do not apply to the
19 payment of overtime compensation to an employee
20 working pursuant to any of the following:

21 (1) An alternative workweek schedule adopted
22 pursuant to Section 511.

23 (2) An alternative workweek schedule adopted
24 pursuant to a collective bargaining agreement pursuant
25 to Section 514.

26 (3) An alternative workweek schedule to which this
27 chapter is inapplicable pursuant to Section 554.

28 (b) Time spent commuting to and from the first place
29 at which an employee's presence is required by the
30 employer shall not be considered to be a part of a day's
31 work, when the employee commutes in a vehicle that is
32 owned, leased, or subsidized by the employer and is used
33 for the purpose of ridesharing, as defined in Section 522
34 of the Vehicle Code.

35 (c) This section does not affect, change, or limit an
36 employer's liability under the workers' compensation
37 law.

38 SEC. 5. Section 511 is added to the Labor Code, to
39 read:



1 511. (a) Upon the proposal of an employer, the
2 employees of an employer may adopt a regularly
3 scheduled alternative workweek that authorizes work by
4 the affected employees for no longer than 10 hours per
5 day within a 40-hour workweek without the payment to
6 the affected employees of an overtime rate of
7 compensation pursuant to this section. A proposal to
8 adopt an alternative workweek schedule shall be deemed
9 adopted only if it receives approval in a secret ballot
10 election by at least two-thirds of affected employees in a
11 work unit. The regularly scheduled alternative
12 workweek proposed by an employer for adoption by
13 employees may be a single work schedule that would
14 become the standard schedule for workers in the work
15 unit, or a menu of work schedule options, from which
16 each employee in the unit would be entitled to choose.

17 (b) An affected employee working longer than eight
18 hours but not more than 12 hours in a day pursuant to an
19 alternative workweek schedule adopted pursuant to this
20 section shall be paid an overtime rate of compensation of
21 no less than one and one-half times the regular rate of pay
22 of the employee for any work in excess of the regularly
23 scheduled hours established by the alternative workweek
24 agreement and for any work in excess of 40 hours per
25 week. An overtime rate of compensation of no less than
26 double the regular rate of pay of the employee shall be
27 paid for any work in excess of 12 hours per day and for any
28 work in excess of eight hours on those days worked
29 beyond the regularly scheduled workdays established by
30 the alternative workweek agreement. Nothing in this
31 section requires an employer to combine more than one
32 rate of overtime compensation in order to calculate the
33 amount to be paid to an employee for any hour of
34 overtime work.

35 (c) An employer shall not reduce an employee's
36 regular rate of hourly pay as a result of the adoption,
37 repeal or nullification of an alternative workweek
38 schedule.

39 (d) An employer shall make a reasonable effort to find
40 a work schedule not to exceed eight hours in a workday,

1 in order to accommodate any affected employee who was
2 eligible to vote in an election authorized by this section
3 and who is unable to work the alternative schedule hours
4 established as the result of that election. An employer
5 shall be permitted to provide a work schedule not to
6 exceed eight hours in a workday to accommodate any
7 employee who was hired after the date of the election and
8 who is unable to work the alternative schedule
9 established as the result of that election. An employer
10 shall explore any available reasonable alternative means
11 of accommodating the religious belief or observance of an
12 affected employee that conflicts with an adopted
13 alternative workweek schedule, in the manner provided
14 by subdivision (j) of Section 12940 of the Government
15 Code.

16 (e) The results of any election conducted pursuant to
17 this section shall be reported by an employer to the
18 Division of Labor Statistics and Research within 30 days
19 after the results are final.

20 (f) Any type of alternative workweek schedule that is
21 authorized by this code and that was in effect on January
22 1, 2000, may be repealed by the affected employees
23 pursuant to this section. Any alternative workweek
24 schedule that was adopted pursuant to Wage Order
25 Numbers 1, 4, 5, 7, or 9 of the Industrial Welfare
26 Commission is null and void, except for an alternative
27 workweek providing for a regular schedule of no more
28 than 10 hours' work in a workday that was adopted by a
29 two-thirds vote of affected employees in a secret ballot
30 election pursuant to wage orders of the Industrial Welfare
31 Commission in effect prior to 1998. This subdivision does
32 not apply to exemptions authorized pursuant to Section
33 515.

34 (g) Notwithstanding subdivision (f), an alternative
35 work week schedule in the health care industry adopted
36 by a two-thirds vote of affected employees in a secret
37 ballot election pursuant to Wage Orders 4 and 5 in effect
38 prior to 1998 that provided for workdays exceeding 10
39 hours but not exceeding 12 hours in a day without the
40 payment of overtime compensation shall be valid until



1 July 1, 2000. An employer in the health care industry shall
2 make a reasonable effort to accommodate any employee
3 in the health care industry who is unable to work the
4 alternative schedule established as the result of a valid
5 election held in accordance with provisions of Wage
6 Orders 4 or 5 that were in effect prior to 1998.

7 SEC. 6. Section 512 is added to the Labor Code, to
8 read:

9 512. An employer may not employ an employee for a
10 work period of more than five hours per day without
11 providing the employee with a meal period of not less
12 than 30 minutes, except that if the total work period per
13 day of the employee is no more than six hours, the meal
14 period may be waived by mutual consent of both the
15 employer and employee. An employer may not employ
16 an employee for a work period of more than 10 hours per
17 day without providing the employee with a second meal
18 period of not less than 30 minutes, except that if the total
19 hours worked is no more than 12 hours, the second meal
20 period may be waived by mutual consent of the employer
21 and the employee only if the first meal period was not
22 waived.

23 SEC. 7. Section 513 is added to the Labor Code, to
24 read:

25 513. If an employer approves a written request of an
26 employee to make up work time that is or would be lost
27 as a result of a personal obligation of the employee, the
28 hours of that makeup work time, if performed in the same
29 workweek in which the work time was lost, may not be
30 counted towards computing the total number of hours
31 worked in a day for purposes of the overtime
32 requirements specified in Section 510 or 511, except for
33 hours in excess of 11 hours of work in one day or 40 hours
34 in one workweek. An employee shall provide a signed
35 written request for each occasion that the employee
36 makes a request to make up work time pursuant to this
37 section. An employer is prohibited from encouraging or
38 otherwise soliciting an employee to request the
39 employer's approval to take personal time off and make

1 up the work hours within the same week pursuant to this
2 section.

3 SEC. 8. Section 514 is added to the Labor Code, to
4 read:

5 514. This chapter does not apply to an employee
6 covered by a valid collective bargaining agreement if the
7 agreement expressly provides for the wages, hours of
8 work, and working conditions of the employees, and if the
9 agreement provides premium wage rates for all overtime
10 hours worked and a regular hourly rate of pay for those
11 employees of not less than 30 percent more than the state
12 minimum wage.

13 SEC. 9. Section 515 is added to the Labor Code, to
14 read:

15 515. (a) The Industrial Welfare Commission may
16 establish exemptions from the requirement that an
17 overtime rate of compensation be paid pursuant to
18 Sections 510 and 511 for executive, administrative, and
19 professional employees, provided that the employee is
20 primarily engaged in the duties which meet the test of the
21 exemption and the employee earns a monthly salary
22 equivalent to no less than two times the state minimum
23 wage for full-time employment.

24 (b) (1) The commission may establish additional
25 exemptions to hours of work requirements under this
26 division where it finds that hours or conditions of labor
27 may be prejudicial to the health or welfare of employees
28 in any occupation, trade, or industry. This paragraph shall
29 become inoperative on January 1, 2005.

30 (2) Except as otherwise provided in this section and in
31 subdivision (g) of Section 511, nothing in this section
32 requires the commission to alter any exemption from
33 provisions regulating hours of work that was contained in
34 any valid wage order in effect in 1997. Except as otherwise
35 provided in this division, the commission may review,
36 retain, or eliminate any exemption from provisions
37 regulating hours of work that was contained in any valid
38 wage order in effect in 1997.



1 (c) For the purposes of this section “full-time
2 employment” means employment in which an employee
3 is employed for 40 hours per week.

4 (d) For the purpose of computing the overtime rate of
5 compensation required to be paid to a nonexempt
6 full-time salaried employee, the employee’s regular
7 hourly rate shall be $\frac{1}{40}$ th of the employee’s weekly
8 salary.

9 (e) For the purposes of this section, “primarily” means
10 more than one-half of the employee’s work time.

11 (f) In addition to the requirements of subdivision (a),
12 registered nurses employed to engage in the practice of
13 nursing shall not be exempted from coverage under any
14 part of the orders of the Industrial Welfare Commission,
15 unless they individually meet the criteria for exemptions
16 established for executive or administrative employees.

17 SEC. 10. Section 516 is added to the Labor Code, to
18 read:

19 516. Notwithstanding any other provision of law, the
20 Industrial Welfare Commission may adopt or amend
21 working condition orders with respect to break periods,
22 meal periods, and days of rest for any workers in
23 California consistent with the health and welfare of those
24 workers.

25 SEC. 11. Section 517 is added to the Labor Code to
26 read:

27 517. (a) The Industrial Welfare Commission shall, at
28 a public hearing to be concluded by July 1, 2000, adopt
29 wage, hours, and working conditions orders consistent
30 with this chapter without convening wage boards, which
31 orders shall be final and conclusive for all purposes. These
32 orders shall include regulations necessary to provide
33 assurances of fairness regarding the conduct of employee
34 workweek elections, procedures for employees to
35 petition for and obtain elections to repeal alternative
36 workweek schedules, procedures for implementation of
37 those schedules, conditions under which an adopted
38 alternative workweek schedule can be repealed by the
39 employer, employee disclosures, designations of work,
40 and processing of workweek election petitions pursuant

1 to Parts 2 and 4 of this division and in any wage order of
2 the commission and such other regulations as may be
3 needed to fulfill the duties of the commission pursuant to
4 this part.

5 (b) Prior to July 1, 2000, the Industrial Welfare
6 Commission shall conduct a review of wages, hours, and
7 working conditions in the ski industry, commercial
8 fishing industry, and health care industry, and for stable
9 employees in the horseracing industry. Notwithstanding
10 subdivision (a) and Sections 510 and 511, and consistent
11 with its duty to protect the health, safety, and welfare of
12 workers pursuant to Section 1173, the commission may,
13 based upon this review, convene a public hearing to
14 adopt or modify regulations at that hearing pertaining to
15 the industries herein, without convening wage boards.
16 Any hearing conducted pursuant to this subdivision shall
17 be concluded not later than July 1, 2000.

18 (c) Notwithstanding subdivision (a) of Section 515,
19 prior to July 1, 2000, the commission shall conduct a
20 review of wages, hours, and working conditions of
21 licensed pharmacists. The commission may, based upon
22 this review, convene a public hearing to adopt or modify
23 regulations at that hearing pertaining to licensed
24 pharmacists without convening wage boards. Any
25 hearing conducted pursuant to this subdivision shall be
26 concluded not later than July 1, 2000. This subdivision
27 shall become inoperative on January 1, 2000, if Senate Bill
28 651 of the 1999–2000 Regular Session is enacted.

29 (d) Notwithstanding sections 1171 and subdivision (a)
30 of Section 515, the Industrial Welfare Commission shall
31 conduct a review of wages, hours, and working conditions
32 of outside salespersons. The commission may, based upon
33 this review, convene a public hearing to adopt or modify
34 regulations at that hearing pertaining to outside
35 salespersons without convening wage boards. Any
36 hearing conducted pursuant to this subdivision shall be
37 concluded not later than July 1, 2000.

38 (e) Nothing in this section is intended to restrict the
39 Industrial Welfare Commission in its continuing duties
40 pursuant to Section 1173.

1 (f) No action taken by the Industrial Welfare
2 Commission pursuant to this section is subject to the
3 requirements of Article 5 (commencing with Section
4 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of
5 the Government Code.

6 (g) All wage orders and other regulations issued or
7 adopted pursuant to this section shall be published in
8 accordance with Section 1182.1.

9 SEC. 12. Section 554 of the Labor Code is amended to
10 read:

11 554. Sections 551 and 552 shall not apply to any cases
12 of emergency nor to work performed in the protection of
13 life or property from loss or destruction, nor to any
14 common carrier engaged in or connected with the
15 movement of trains. This chapter, with the exception of
16 Section 558, shall not apply to any person employed in an
17 agricultural occupation, as defined in Order No. 14-80
18 (operative January 1, 1998) of the Industrial Welfare
19 Commission, nor shall the provisions of this chapter apply
20 when the employer and a labor organization
21 representing employees of the employer have entered
22 into a valid collective-bargaining agreement pursuant to
23 Section 514. Nothing in this chapter shall be construed to
24 prevent an accumulation of days of rest when the nature
25 of the employment reasonably requires that the
26 employee work seven or more consecutive days,
27 providing that in each calendar month the employee
28 receive days of rest equivalent to one day's rest in seven.
29 The requirement respecting the equivalent of one day's
30 rest in seven shall apply, notwithstanding the other
31 provisions of this chapter relating to
32 collective-bargaining agreements, where the employer
33 and a labor organization representing employees of the
34 employer have entered into a valid collective-bargaining
35 agreement respecting the hours of work of the
36 employees, unless the agreement expressly provides
37 otherwise.

38 In addition to the exceptions herein, the Chief of the
39 Division of Labor Standards Enforcement may, when in

1 his judgment hardship will result, exempt any employer
2 or employees from the provisions of Sections 551 and 552.

3 SEC. 13. Section 556 of the Labor Code is amended to
4 read:

5 556. Sections 551 and 552 shall not apply to any
6 employer or employee when the total hours of
7 employment do not exceed 30 hours in any week or six
8 hours in any one day thereof.

9 SEC. 14. Section 558 is added to the Labor Code, to
10 read:

11 558. (a) Any employer or other person acting on
12 behalf of an employer who violates, or causes to be
13 violated, a section of this chapter or any provision
14 regulating hours and days of work in any order of the
15 Industrial Welfare Commission shall be subject to a civil
16 penalty as follows:

17 (1) For any initial violation, fifty dollars (\$50) for each
18 underpaid employee for each pay period for which the
19 employee was underpaid in addition to an amount
20 sufficient to recover underpaid wages.

21 (2) For each subsequent violation, one hundred
22 dollars (\$100) for each underpaid employee for each pay
23 period for which the employee was underpaid in addition
24 to an amount sufficient to recover underpaid wages.

25 (3) Wages recovered pursuant to this section shall be
26 paid to the affected employee.

27 (b) If upon inspection or investigation the Labor
28 Commissioner determines that a person had paid or
29 caused to be paid a wage for overtime work in violation
30 of any provision of this chapter, or any provision
31 regulating hours and days of work in any order of the
32 Industrial Welfare Commission, the Labor Commissioner
33 may issue a citation. The procedures for issuing,
34 contesting, and enforcing judgments for citations or civil
35 penalties issued by the Labor Commissioner for a
36 violation of this chapter shall be the same as those set out
37 in Section 1197.1.

38 (c) The civil penalties provided for in this section are
39 in addition to any other civil or criminal penalty provided
40 by law.

1 SEC. 15. Section 1182.1 of the Labor Code is amended
2 to read:

3 1182.1. Any action taken by the commission pursuant
4 to Sections 517 and 1182 shall be published in at least one
5 newspaper in each of the cities of Los Angeles,
6 Sacramento, Oakland, San Jose, Fresno, San Diego, and
7 San Francisco. A summary of the action taken and notice
8 of where the complete text of the new or amended order
9 may be obtained may be published in lieu of the complete
10 text when the commission determines such summary and
11 notice will adequately inform the public. The statement
12 as to the basis of the order need not be published.

13 SEC. 16. Section 1182.2 of the Labor Code is amended
14 to read:

15 1182.2. (a) The Legislature finds that the hours and
16 days of work of employees employed in California in the
17 seasonal ski industry are subject to fluctuations which are
18 beyond the control of their employers. The Legislature
19 further finds that the economic interests of these
20 employees are best served when minimum limitations
21 are placed upon their hours and days of work.
22 Accordingly, no employer who operates a ski
23 establishment shall be in violation of any provision of this
24 code or any applicable order of the Industrial Welfare
25 Commission by instituting a regularly scheduled
26 workweek of not more than 56 hours, provided that any
27 employee shall be compensated at a rate of not less than
28 one and one-half times the employee's regular rate of pay
29 for any hours worked in excess of 56 hours in any
30 workweek.

31 (b) As used in this section, "ski establishment" means
32 an integrated, geographically limited recreational area
33 comprised of the basic skiing facilities, together with all
34 operations and facilities related thereto.

35 (c) This section shall apply only during any month of
36 the year when Alpine or Nordic skiing activities,
37 including snowmaking and grooming activities, are
38 actually being conducted by the ski establishment.

39 This section shall remain in effect only until July 1, 2000,
40 and as of that date is repealed, unless a later enacted

1 statute, that is enacted before July 1, 2000, deletes or
2 extends that date.

3 SEC. 17. Section 1182.3 of the Labor Code is amended
4 to read:

5 1182.3. No employee licensed pursuant to Article 3
6 (commencing with Section 7850) of Chapter 1 of Part 3
7 of Division 6 of the Fish and Game Code, or is employed
8 on a commercial passenger fishing boat licensed pursuant
9 to Article 5 (commencing with section 7920) of Chapter
10 1 of Part 3 of Division 6 of the Fish and Game Code, shall
11 be subject to a minimum wage or maximum hour order
12 of the commission.

13 This section shall remain in effect only until July 1, 2000,
14 and as of that date is repealed, unless a later enacted
15 statute, that is enacted before July 1, 2000, deletes or
16 extends that date.

17 SEC. 18. Section 1182.9 of the Labor Code is amended
18 to read:

19 1182.9. An employer engaged in the operation of a
20 licensed hospital or providing personnel for the operation
21 of a licensed hospital who institutes, pursuant to an
22 applicable order of the commission, a regularly scheduled
23 workweek that includes no more than three working days
24 of no more than 12 hours each within any workweek, shall
25 make a reasonable effort to find an alternative work
26 assignment for any employee who participated in the
27 vote which authorized the schedule and is unable to work
28 12-hour workday schedules. An employer shall not be
29 required to offer an alternative work assignment to an
30 employee if an alternative work assignment is not
31 available or if the employee was hired after the adoption
32 of the 12-hour, 3-day workweek schedule.

33 This section shall remain in effect only until July 1, 2000,
34 and as of that date is repealed, unless a later enacted
35 statute, that is enacted before July 1, 2000, deletes or
36 extends that date.

37 SEC. 19. Section 1182.10 of the Labor Code is
38 amended to read:

39 1182.10. (a) Notwithstanding any other provision of
40 this chapter, or any order of the commission, the



1 employment of stable employees engaged in the raising,
2 feeding, and management of racehorses by a trainer shall
3 be subject to the same standards governing wages, hours,
4 and conditions of labor as those established by the
5 commission for employees in agricultural occupations
6 engaged in the raising, feeding, and management of
7 other livestock, except as set forth in subdivision (b).

8 (b) Notwithstanding the provisions of any order of the
9 commission permitting employees employed in
10 agricultural occupations to work 10 hours on each of six
11 workdays in a seven-day workweek without the payment
12 of overtime compensation, stable employees shall not be
13 employed more than 10 hours in any workday, nor more
14 than 56 hours during seven days in any workweek.
15 However, stable employees may be employed in excess
16 of 10 hours in any workday, and in excess of 56 hours
17 during seven days in one workweek, if these employees
18 are compensated at a rate of not less than one and
19 one-half times the employees' regular rate of pay for all
20 hours worked in excess of 10 hours in any workday, or 56
21 hours in any workweek.

22 (c) For purposes of this section:

23 (1) "Stable employees" includes, but is not limited to,
24 grooms, hotwalkers, exercise workers, and any other
25 employees engaged in the raising, feeding, or
26 management of racehorses, employed by a trainer at a
27 racetrack or other nonfarm training facility.

28 (2) "Trainer" has the same definition as in Section
29 24001 of the Food and Agricultural Code.

30 (3) "Workday" and "workweek" have the same
31 definition as in the order of the commission applicable to
32 employees employed in agricultural occupations.

33 (4) "Regular rate of pay" includes all wages paid by
34 the trainer to the stable employee for a workweek of not
35 more than 56 hours, but excludes those amounts excluded
36 from regular pay by Section 7(e) of the Fair Labor
37 Standards Act (29 U.S.C. Sec. 207(e)), and excludes the
38 payment of the stable employee's share, if any, of the
39 purse of a race, whether that share is paid by the owner
40 of the racehorse or by the trainer.

1 This section shall remain in effect only until July 1, 2000,
2 and as of that date is repealed, unless a later enacted
3 statute, that is enacted before July 1, 2000, deletes or
4 extends that date.

5 SEC. 20. Section 1183.5 of the Labor Code is repealed.

6 SEC. 21. Wage Orders number 1-98, 4-98, 5-98, 7-98,
7 and 9-98 adopted by the Industrial Welfare Commission
8 are null and void, and Wage Orders 1-89, 4-89 as amended
9 in 1993, 5-89 as amended in 1993, 7-80, and 9-90 are
10 reinstated until the effective date of wage orders issued
11 pursuant to Section 517.

12 SEC. 22. No reimbursement is required by this act
13 pursuant to Section 6 of Article XIII B of the California
14 Constitution because the only costs that may be incurred
15 by a local agency or school district will be incurred
16 because this act creates a new crime or infraction,
17 eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section
19 17556 of the Government Code, or changes the definition
20 of a crime within the meaning of Section 6 of Article
21 XIII B of the California Constitution.

